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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOERG-MICHAEL HASEMANN

Appeal 2007-3051
Application 09/857,677
Technology Center 2600

Decided: January 31, 2008

Before KENNETH W. HAIRSTON, JOSEPH F. RUGGIERO, and MARC S. HOFF, *Administrative Patent Judges*.

HAIRSTON, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134 from a final rejection of claims 12 to 29. We have jurisdiction under 35 U.S.C. § 6(b).

We will sustain the obviousness rejections.

Appellant has invented an integrated telecommunication terminal in the form of a ballpoint pen (Figure 2; Specification 5). When the writing tip of the telecommunications terminal is pressed against a surface, the writing tip can be used to write alphanumeric characters on the surface (Specification 5). The pressure exerted on the writing tip and the movement

of the writing tip across the surface are detected by a plurality of pressure sensors in the telecommunication terminal (Specification 3 to 5). The outputs from the pressure sensors are used by a character recognition unit in the telecommunication terminal to recognize the written alphanumeric characters (Specification 5 to 7).

Claim 12 is the only independent claim on appeal, and it reads as follows:

12. An integrated telecommunication terminal in a single integrated housing, comprising:

a plurality of data input units including at least one pressure sensor element;

a character recognition unit;

a pressure receiving element acting jointly with the at least one pressure sensor element so that a movement of the pressure receiving element on a surface is detectable by the at least one pressure sensor element, the movement of the pressure receiving element detected by the at least one pressure sensor element being converted into signaling information by the character recognition unit in the single integrated housing, and the surface is able to be written upon by the movement of the pressure receiving element;

wherein the plurality of data input units include a plurality of confirmation devices, and the signaling information is correctable by the plurality of confirmation devices.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Mochinaga

US 4,751,741

Jun. 14, 1988

Wolff	US 6,081,261	Jun. 27, 2000
Nagai	US 6,104,388	Aug. 15, 2000
Hess	US 6,487,421 B2	Nov. 26, 2002 (filed Sep. 15, 1998)

The Examiner rejected claims 12 through 25 and 27 to 29 under 35 U.S.C. § 103(a) based upon the teachings of Hess, Wolff, and Mochinaga. The Examiner rejected claim 26 under 35 U.S.C. § 103(a) based upon the teachings of Hess, Wolff, Mochinaga, and Nagai.

Appellant contends *inter alia* that the Examiner has resorted to impermissible hindsight reconstruction to demonstrate the obviousness of the claimed subject matter set forth in claim 12 (Br. 11 and 12).

ISSUE

Do the applied references teach or would they have suggested to the skilled artisan an integrated telecommunication terminal in a single integrated housing that includes all of the structure set forth in claim 12 on appeal?

FINDINGS OF FACT

In the first embodiment, Hess describes an integrated telecommunication terminal that functions as a radio telephone 1 in a single integrated housing (Figure 1; Abstract). The telecommunication terminal has a plurality of data inputs (e.g., pressure sensor switch 11 and motion detection/acceleration sensors 10), and a character recognition unit 21 in electronic circuit 3 (Figure 2; Col. 5, ll. 24 to 52). During use of the telecommunication terminal, an operating element/pressure receiving element 14 is pushed against the base surface 15 to thereby apply an inward detectable force to pressure sensor switch 11 (Col. 5, ll. 35 to 40). The

output signal from the pressure sensor switch 11 is provided to the character recognition unit 21 via line 16 in the single integrated housing (Figure 2; Col. 5, ll. 43 to 52). The surface 15 is able to be written upon by the movement of the pressure receiving element 14 (Col. 4, ll. 61 to 63; col. 7, ll. 54 to 56; col. 8, ll. 51 to 55). The plurality of data input units include a plurality of confirmation devices¹ (e.g., microphone 7 and buttons/key 9), and the signaling information produced by the character recognition unit is correctable by the plurality of confirmation devices (Col. 3, ll. 1 to 5; col. 7, ll. 62 to 65).

In an alternative embodiment, Hess describes a telecommunication terminal that uses a pressure sensitive measuring switch 62 to detect movement of an elastically supported roller ball 61 when it is pressed against base surface 15 (Col. 9, ll. 11 to 24). The output signals from the pressure sensitive measuring switch 62 are to a character recognition unit 21 via a line 64 (Col. 9, ll. 24 to 27).

The reference to Wolff was cited by the Examiner for a teaching of a pressure receiving element, a pressure sensor element, and a character recognition unit that receives signal information from the pressure sensor element (Ans. 4).

The reference to Mochinaga was cited by the Examiner for a teaching of the operation of a pressure receiving element, a pressure sensor element, a character recognition unit, and a confirmation device (Ans. 5).

The reference to Nagai was cited by the Examiner for a teaching of a “telecommunication terminal wherein a calculator mode can be activated and operated, and the signaling information is processable and calculation

¹ Appellant’s disclosure lists a microphone 144 and keys as examples of confirmation devices 142 (Specification 5).

results are displayable in accordance with an operation of the plurality of reproduction device (see col. 6, lines 17-25)” (Ans. 7).

PRINCIPLES OF LAW

In sustaining a multiple reference rejection under 35 U.S.C. § 103(a), the Board may rely on less than the total amount of evidence relied on by the Examiner without designating it as a new ground of rejection. *In re Bush*, 296 F.2d 491, 496 (CCPA 1961); *In re Boyer*, 363 F.2d 455, 458 n.2 (CCPA 1966).

The claims on appeal should not be confined to specific embodiments described in the Specification. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1323 (Fed. Cir. 2005) (*en banc*).

During *ex parte* prosecution, claims must be interpreted as broadly as their terms reasonably allow since Applicants have the power during the administrative process to amend the claims to avoid the prior art. *In re Zletz*, 893 F.2d 319, 322 (Fed. Cir. 1989).

ANALYSIS

When the limitations of claim 12 are given their broadest reasonable interpretation, we find that Hess teaches or would have suggested to the skilled artisan all of the integrated telecommunication terminal structure set forth in claim 12. As indicated *supra*, the teachings of Wolff and Mochinaga are merely cumulative to teachings already present in Hess. Accordingly, Appellant’s arguments concerning lack of motivation to combine the references, selectively picking and choosing teachings from the references, impermissible hindsight reconstruction, and obvious to try are not convincing of the nonobviousness of the claimed subject matter set forth in claim 12 (Br. 9 to 12).

With respect to claim 26, we find that the Examiner did not have to turn to the cumulative teachings of Nagai to demonstrate the obviousness of a calculator mode in the telecommunication terminal inasmuch as Hess describes such a mode in a telecommunication terminal (Col. 1, ll. 29 to 34).

Turning lastly to claims 13 to 25 and 27 to 29, we find that the Appellant has not presented any patentability arguments for these claims.

CONCLUSION OF LAW

As indicated *supra*, the obviousness of the claimed subject matter set forth in claims 12 to 29 is demonstrated by the teachings of Hess.

ORDER

The obviousness rejections of claims 12 to 29 are affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv).

AFFIRMED

tdl/gvw

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